

TSBPME Case No. 04-133

IN THE MATTER OF
ANDERSON, DAVID B., D.P.M.

PROBATED SUSPENSION of

LICENSE No. 1506

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BEFORE THE TEXAS STATE
BOARD OF PODIATRIC
MEDICAL EXAMINERS

SITTING IN AUSTIN,

TRAVIS COUNTY, TEXAS

AGREED ORDER

BE IT REMEMBERED that on the date approved and entered below, came to be considered the allegations against David B. Anderson, DPM. By letter dated July 13, 2004 the staff of the Texas State Board of Podiatric Medical Examiners (the "Board") gave preliminary notice to Dr. Anderson of its intent to investigate complaints, concerns or reports filed against him. Dr. Anderson was duly notified of the allegations against him. Dr. Anderson has cooperated with the staff of the Board and was given the opportunity to present information in rebuttal.

By his signature on this Order, and upon acceptance and entry of this Order by the Board, Dr. Anderson does hereby waive his right to an administrative hearing before the State Office of Administrative Hearings, and judicial review of this Order. Dr. Anderson understands that he has the option, before signing this Agreed Order, to participate in a contested case hearing under the *Administrative Procedure Act*.

The Board and Dr. Anderson, in order to avoid the expense, delay and uncertainty of a hearing, have agreed to the entry of an Order dispensing with the need for further action in this matter. Dr. Anderson agrees to this Order for the purpose of resolving this proceeding only and without admitting or denying the Findings of Fact and Conclusions of Law set out in this Order. The Board makes the following Findings of Fact and enters this Order:

FINDINGS OF FACT

1. Dr. Anderson is licensed as a podiatric physician in the State of Texas (License Number 1506) to practice podiatric medicine and is therefore subject to the jurisdiction of the Board, the Podiatric Medical Practice Act of Texas and the Rules of the Board.
2. Complaints were filed against Dr. Anderson, and he was provided with notice of the complaints and with an opportunity to respond to the complaints and to show compliance with the law.
3. Dr. Anderson, as a podiatrist licensed in the State of Texas, must comply with the provisions of the Podiatric Medical Practice Act of Texas, the Board Rules and Board Orders.
4. Dr. Anderson has engaged in activity that in the Board's opinion is unprofessional

- and poses a harm to the public.
5. Dr. Anderson has cooperated with the Board and seeks rehabilitation to resolve this matter.

CONCLUSIONS OF LAW

1. Dr. Anderson is required to follow the provisions of the Podiatric Medical Practice Act, Texas Occupations Code, §202.001, et. seq., and the associated Rules of the Board, 22 Tex. Administrative Code § 371.1, et. seq.
2. Texas Occupations Code, §202.253(a)(4) provides that, "the board may refuse to issue a license to practice podiatry to a person, for engaging in grossly unprofessional or dishonorable conduct of a character that in the board's opinion is likely to deceive or defraud the public."
3. Texas Occupations Code, §202.253(a)(5) provides that, "the board may refuse to issue a license to practice podiatry to a person, for directly or indirectly violating or attempting to violate this chapter or a rule adopted under this chapter as a principal, accessory, or accomplice."
4. Texas Occupations Code, §202.253(a)(16) provides that, "the board may refuse to issue a license to practice podiatry to a person, for failing to practice podiatry in an acceptable manner consistent with public health and welfare."
5. Texas Occupations Code, §202.501(a) provides that, "the Board shall revoke or suspend a license; place on probation a person whose license has been suspended, or reprimand a license holder for violating the law regulating the practice of podiatry or a rule adopted by the board."
6. Texas Occupations Code, §202.5015 provides that a license holder who engages in conduct described by Section 202.253 violates this chapter.
7. 22 Texas Administrative Code, §375.2(b) provides that, "a licensed podiatric physician shall conduct his practice on the highest plane of honesty, integrity, and fair dealing."
8. 22 Texas Administrative Code, §376.1(a)(1) provides that, "any podiatric physician who violates any provision of these rules, or any provision of the Act shall be at the discretion of the Board subject to the following penalties: cancellation, suspension, revocation, or probated cancellation, revocation, or suspension of the license to practice podiatric medicine."
9. The Findings Of Fact numbers 1 through 5 establish that Dr. Anderson violated: *Texas Occupations Code, §202.253(a)(3)* in that he: engaged in habits of intemperance or drug addiction that in the board's opinion would endanger the health, well-being, or welfare of patients.
22 Texas Administrative Code §375.2(a) provides: "The health and safety of patients shall be the first consideration of the podiatric physician. The principal objective of the podiatric medical profession is to render service to humanity. A podiatric physician shall continually strive to improve his medical knowledge and skill for the benefit of his patients and colleagues. The podiatric physician shall administer to patients in a professional manner and to the best of his ability. Secrets and personal information entrusted to him shall be held inviolate unless disclosure is necessary to protect the welfare of the individual or the community. A podiatric physician shall be temperate in all things in recognition that his

knowledge and skill are essential to public health, welfare, and human life.”

ORDER

1. Dr. Anderson’s license to practice podiatric medicine is hereby Suspended for a term of (ten) 10 years. The entire Suspension is Probated, conditioned upon the successful completion of the provisions set forth below.
2. Dr. Anderson shall pay a fine of \$1,000.00 (One Thousand Dollars and no/100) fully due and payable within 60 (sixty) days after the effective date of this Agreed Order. The entire fine is Probated, conditioned upon the successful completion of the provisions set forth below.

During the (ten) 10-year Probated Suspension:

3. Dr. Anderson shall permit a Board representative or staff member to periodically enter his place of business and/or the facility at which he maintains an office, announced or unannounced, during the hours of 8:00 a.m. to 5:00 p.m. on any weekday that is not a federal holiday to ensure compliance with this Order, and to ensure proper medical records are maintained, including proper drug inventories consistent with the proper practice of podiatric medicine.
4. Dr. Anderson shall abstain from any possession or use of controlled substances or narcotics. Dr. Anderson may utilize prescription controlled substances/narcotics which are medically necessary supported by a physician’s course of treatment for a medical condition.
5. A drug-monitoring or counseling program shall monitor Dr. Anderson during the initial 24-month period of the probated suspension, with all associated costs being Dr. Anderson’s responsibility. The program may be selected by Dr. Anderson to accommodate his budget. Reports on Dr. Anderson’s success with therapy shall be submitted to the Board on a quarterly basis for that initial 24-month period . Dr. Anderson may, within 30 (thirty) days after the effective date of this Agreed Order, submit to the Board any documentation acknowledging existing compliance with drug monitoring.
6. If Dr. Anderson in any way does not comply with the terms of this Agreed Order, the probation of the suspension will be lifted, resulting in a full imposition of suspension requiring that Dr. Anderson’s office will be closed for any and all business, and subjecting Dr. Anderson to comply with all the provisions of 22 Tex. Admin. Code §376.7, regarding conditions of suspension.
7. Entry of this Order shall finally resolve any and all pending matters or investigations before the Board, that are not subject to automatic statutory sanctions due to any final criminal convictions for the matters that are the subject of this Order.
8. The terms of this **Agreed Order**, if accepted by the Board, become effective upon

approval of the Board.

9. If Dr. Anderson fully complies with the terms of the **Agreed Order**, the Board agrees not to bring any further disciplinary action regarding the facts that are the subject of this Order.

GENERAL PROVISIONS

1. Effective Date. This **Agreed Order** shall take effect and become binding upon the approval by the Board.
2. No Waiver. No waiver of any of the terms of this **Agreed Order** shall be valid unless in writing. No waiver of default of any terms of the **Agreed Order** shall be deemed a waiver of any subsequent breach or default of the same or similar nature.
3. Governing Law. This Agreed Order is entered into pursuant to and shall be construed to be in accordance with the laws of the State of Texas including *Tex. Occup. Code Ann., §202.001 et. seq., the Podiatric Medical Practice Act., Tex. Occup. Code Ann., §53.021* and the *Tex. Gov't Code Ann., §2001.001 et seq., the Administrative Procedure Act*.
4. Acknowledgment of Entire Agreement. Dr. Anderson acknowledges that he has carefully read this instrument, including all documents or exhibits, if any, that are referred to, that this instrument expresses the entire agreement between the parties concerning the subjects it purports to cover, and Dr. Anderson has executed this instrument freely and of his own accord.
5. Notice. Any notice to be given under the terms of this **Agreed Order** by either party to this order shall be in writing and shall be delivered by personal delivery or certified mail, return receipt requested, to the following addresses:

Dr. David Anderson, DPM
1122 E. Austin; Bldg. B #2
Paris, TX 75460

Texas State Board of Podiatric Medical Examiners
P.O. Box 12216
Austin, TX 78711-2216
6. Upon approval of this Agreed Order by the Board, the Presiding Officer and the Executive Director are authorized to sign the Order on the Board's behalf.

I, DAVID B. ANDERSON, DPM, HAVE READ AND UNDERSTAND THE FOREGOING ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE THE RIGHT TO A HEARING BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND TO JUDICIAL REVIEW OF THE AGREED ORDER. I SIGN IT VOLUNTARILY. I UNDERSTAND THE AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, ORAL, WRITTEN OR OTHERWISE.



David B. Anderson

7/27/04

Date

IN THE STATE OF TEXAS

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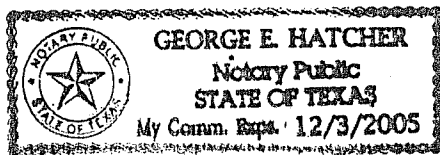
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COUNTY OF LAMAR

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BEFORE ME, on this day personally appeared David B. Anderson known to me, who first, being duly sworn, signed the foregoing **Agreed Order** in my presence.

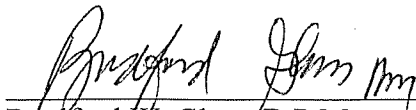
SIGNED on this the 27th day of July, 2004.



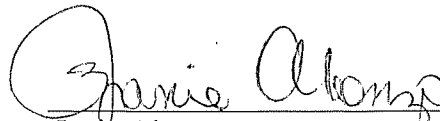
George E Hatcher
(Printed Name of Notary Public)

George E Hatcher
Notary Public, in and for the State of Texas

APPROVED AND ENTERED by the Texas State Board of Podiatric Medical Examiners on this the 9th day of AUGUST, 2004, after a Board vote.



Bradford W. Glass, D.P.M.
Board President



Janie Alonzo
Acting-Executive Director